

AMENDED IN ASSEMBLY JULY 10, 2007

AMENDED IN ASSEMBLY JUNE 27, 2007

SENATE BILL

No. 370

Introduced by Senator Kuehl

February 21, 2007

An act to amend Section 14133.8 of, to add Sections 14132.69 and 14132.71 to, and to repeal Sections 14132.5 and 14132.7 of, the Welfare and Institutions Code, relating to Medi-Cal.

LEGISLATIVE COUNSEL'S DIGEST

SB 370, as amended, Kuehl. Medi-Cal: organ *and bone marrow* transplants.

Existing law establishes the Medi-Cal program, administered by the State Department of Health Care Services, under which basic health care services are provided to qualified low-income persons. Existing law authorizes the department to implement utilization controls through the establishment of guidelines, protocols, algorithms, or criteria for drugs, medical supplies, durable medical equipment, and enteral formulae.

Under existing law, liver, heart, and bone marrow transplant and donor surgeries are covered as reimbursable services under the Medi-Cal program.

This bill would repeal these provisions as to liver and heart transplant and donor surgeries, and would instead, require all donor and recipient organ transplant surgeries to be covered under the Medi-Cal program when an organ transplant is provided to a beneficiary *who is eligible for full-scope benefits* in a medical facility that meets the requirements of, and is approved by, the department. The bill would also require all donor and recipient organ *and bone marrow* transplant surgeries that

are authorized by the department pursuant to these provisions to be subject to utilization controls, ~~and reimbursable only to the extent that federal financial participation is available.~~

This bill would require the department, for purposes of donor and recipient organ transplant surgeries, to establish standards as to both the circumstances and the criteria that the department will use for approving facilities and personnel for organ transplants eligible for receiving reimbursement under the Medi-Cal program.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares that a number
2 of serious problems have recently occurred in several organ
3 transplant programs in California.

4 (a) The Legislature further finds and declares that these problems
5 highlight the need to require transplant centers to operate in a
6 manner that best assists both those who are receiving transplants
7 and those who are awaiting transplants, as well as organ donors
8 and affected families, and also to make certain that proper expertise
9 is available to accomplish these goals.

10 (b) It is the intent of the Legislature in enacting this act to ensure
11 that local, state, and federal money continues to be efficiently
12 spent, patients are protected, and that the State Department of
13 Health Care Services further develops clarifying guidelines as they
14 continue to implement and administer their existing utilization
15 controls for organ transplants.

16 SEC. 2. Section 14132.5 of the Welfare and Institutions Code
17 is repealed.

18 SEC. 3. Section 14132.69 is added to the Welfare and
19 Institutions Code, to read:

20 14132.69. (a) Notwithstanding any other provision of law,
21 donor and recipient organ transplant surgeries are covered under
22 the Medi-Cal program when an organ transplant is provided to a
23 beneficiary *who is eligible for full-scope benefits* under this chapter
24 in a medical facility that meets the requirements of, and is approved
25 by, the department.

26 (b) Any donor or recipient organ transplant surgeries authorized
27 by the department pursuant to this chapter are subject to utilization

1 ~~controls and are reimbursable under this chapter only to the extent~~
2 ~~that federal financial participation is available.~~ *controls.*

3 (c) Notwithstanding Chapter 3.5 (commencing with Section
4 11340) of Part 1 of Division 3 of Title 2 of the Government Code,
5 the department may implement, interpret, or make specific this
6 section by means of all-county letters, provider bulletins, or other
7 instructions, without taking any further regulatory action.

8 (d) This section shall not apply to Section 14133.8.

9 SEC. 4. Section 14132.7 of the Welfare and Institutions Code
10 is repealed.

11 SEC. 5. Section 14132.71 is added to the Welfare and
12 Institutions Code, to read:

13 14132.71. (a) For purposes of donor and recipient organ
14 transplant surgeries, the department shall establish standards as to
15 both the circumstances and the criteria that the department will
16 use for approving facilities eligible for receiving reimbursement
17 under the Medi-Cal program.

18 (b) Notwithstanding Chapter 3.5 (commencing with Section
19 11340) of Part 1 of Division 3 of Title 2 of the Government Code,
20 the department may implement, interpret, or make specific this
21 section by means of all-county letters, provider bulletins, or other
22 instructions, without taking any further regulatory action.

23 SEC. 6. Section 14133.8 of the Welfare and Institutions Code
24 is amended to read:

25 14133.8. (a) A bone marrow transplant for the treatment of
26 cancer for beneficiaries *who are eligible for full-scope benefits*
27 *under this chapter*, shall be reimbursable under this chapter, when
28 all of the following conditions are met:

29 (1) The bone marrow transplant is recommended by the
30 recipient's physician.

31 (2) The bone marrow transplant is performed in a hospital that
32 is approved for participation in the Medi-Cal program.

33 (3) The bone marrow transplant is a reasonable course of
34 treatment and is approved by the hospital medical policy committee
35 when there is an existing committee or a committee can be
36 established.

37 (4) The bone marrow transplant has been deemed appropriate
38 for the recipient by the program's medical consultant. The medical
39 consultant shall not disapprove the bone marrow transplant solely
40 on the basis that it is classified as experimental or investigational.

1 ~~(5) Full federal financial participation is available for~~
2 ~~reimbursement for the performance of the bone marrow transplant.~~

3 (b) The program shall provide reimbursement for both donor
4 and recipient surgery.

5 (c) The department may establish inpatient rates of
6 reimbursement not in accordance with the state plan for those
7 hospitals not under contract with the state pursuant to Article 2.6
8 (commencing with Section 14081), provided that the state plan is
9 subsequently amended to reflect the method of reimbursement.

10 (d) This section shall not be construed as prohibiting
11 reimbursement for any bone marrow transplants otherwise provided
12 for under this chapter.

13 (e) Any bone marrow transplant authorized by the department
14 pursuant to this section shall be subject to utilization controls ~~and~~
15 ~~reimbursable only to the extent that federal financial participation~~
16 ~~is available..~~

17 (f) Notwithstanding Chapter 3.5 (commencing with Section
18 11340) of Part 1 of Division 3 of Title 2 of the Government Code,
19 the department may implement, interpret, or make specific this
20 section by means of all-county letters, provider bulletins, or other
21 instructions, without taking any further regulatory action.